

## RESOLUTION

NUMBER 2013-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, AMENDING RESOLUTION NUMBER 07-096 AND RESOLUTION 10-036 TO AMEND THE AMOUNT OF ADMINISTRATIVE FEES FOR EXCAVATION AND EARTHMOVING ACTIVITIES; PROVIDING FOR A PERFORMANCE ASSURANCE FOR LAND RECLAMATION; PROVIDING FORMULAS FOR CALCULATING THE PERFORMANCE ASSURANCE FOR LAND RECLAMATION AND PERFORMANCE ASSURANCE FOR ROAD MAINTENANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Resolution Number 07-096 sets forth a fee schedule for various services, including those pertaining to excavations, performed by the Community Development Department; and

WHEREAS, it is necessary to update fees for those various services from time to time to provide for the recovery of associated costs; and

WHEREAS, Part III Land Development and Growth Management, Chapter 3-5 Planning and Development, Article XXIII of the Charlotte County Code of Laws and Ordinances ("Article XXIII"), provides that the Board of County Commissioners of Charlotte County shall, by resolution, set performance assurances and fees for excavation and earthmoving permits; and

WHEREAS, the fees established herein are reasonably related to the actual costs of performing those certain services associated with administering, reviewing, and monitoring the provisions of Article XXIII; and

WHEREAS, the performance assurances established herein reasonably protect the public health, safety, and welfare, relative to obligations of excavation and earthmoving permittees for compliance.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Charlotte County, Florida:

1. The Community Development Department of Charlotte County is hereby authorized and directed to collect those fees and require posting of those performance assurances at the time of permit application, as set forth hereinafter.

2. Resolution Number 07-096 and Resolution 10-036 are amended to provide for fees as set forth in the following chart for Standard Earthmoving, Specific Minor, and Specific Major, as said excavations are defined in Article XXIII of Chapter 3-5 of the Code of Laws and Ordinances of Charlotte County.

Permit Class	Permit Application Fee	Annual Report and Inspection Fee/ Due Jan.1 <sup>st</sup> annually	Minor Modification Fee	Major Modification Fee
Standard Earthmoving	Exact County resource costs for review and approval costs not to exceed \$ 2,400	NONE	\$500	N/A
Specific Minor	Exact County resource costs for review and approval costs not to exceed \$5,800	\$ 4,016	\$500	N/A
Specific Major	Exact County resource costs for review and approval not to exceed \$ 15,000	\$4,016	\$500	Exact County resource costs for review and approval not to exceed \$ 15,000

3. **Groundwater Analysis Review.** All costs incurred by the County for consultant review shall be passed through to the applicant. The pass through costs shall not exceed \$20,000.

**4. Performance assurance for land reclamation.** A secured cash deposit or other financial instrument in a form acceptable to the County Attorney shall be provided in the amount sufficient to ensure compliance with the proposed reclamation plan pursuant to Article XXIII. At a minimum the amount to be provided shall cover the costs of all revegetation and landscaping, the restoration of any wildlife habitat, slope stability and erosion and drainage control, the disposal of any hazardous materials, and such other measures contained in the reclamation plan.

The calculation of the performance assurance shall be based on cost estimates prepared by a registered professional engineer and/or other qualified professionals retained by the applicant. The calculations shall take into consideration not only the costs of the physical activities but also the administrative, mobilization and acquisition costs necessary to assure the complete implementation of the reclamation plan in the event the applicant fails to fully reclaim. Furthermore, in projecting the amount of the performance assurance, it shall be assumed without prejudice or insinuation that the excavation could be abandoned by the permittee and, consequently, the County may need to complete the reclamation or contract with a third party commercial entity.

The initial performance assurance must be acceptable to the Hearing Examiner or the Excavation Administrator in those instances when no hearing is necessary. The amount of the performance assurance shall be reviewed annually consistent with the annual reporting and as-built certification requirements of Article XXIII. During the annual review process the amount of the performance assurance may be adjusted by the Excavation Administrator as necessary to account for partial reclamations for the preceding year, inflation or other cost altering factors. The annual review shall include estimates to cover reclamation for existing conditions and for anticipated activities during the upcoming year.

Nothing herein shall prevent the applicant from providing performance assurances pursuant to accepted phased excavation and reclamation plan in which the calculations and assurance amounts are based on specific phases of an operation. In doing so the applicant must submit reclamation calculations in a manner that clearly sets out the costs for each specific phase. Performance assurances under a phased plan shall be required only for those phases under active operation instead of the entire site. Under a phased plan the amount of the performance assurance will be recalculated at the end of each phase and adjusted accordingly.

**5. Performance Assurance for Road Maintenance.** A secured cash deposit or other financial instrument in a form acceptable to the County Attorney shall be

provided in the amount sufficient to ensure compliance with the proposed activity pursuant to Article XXIII, Section 3.5.465.

The amount of the performance assurance shall be based on the cost estimates prepared by a registered professional engineer and/or other qualified professionals retained by the applicant. The calculations shall take into consideration not only the costs of the physical activities but also the administrative and mobilization costs necessary to assure the complete road maintenance for roads used as haul routes.

The initial performance assurance must be acceptable to the Hearing Examiner or the Excavation Administrator in those instances when no hearing is necessary. The amount of the performance assurance shall be reviewed annually consistent with the annual reporting and as-build certifications requirements. During the annual review process the amount of the performance assurance may be adjusted by the Excavation Administrator as necessary to account for inflation and other cost factors. The annual review shall include estimates to cover road maintenance costs for existing conditions and for anticipated activities during the upcoming year.

Nothing herein shall prevent the applicant from providing performance assurances pursuant to accepted phased excavation in which the calculations are based on specific phases of an operation. In doing so the applicant must submit road maintenance calculations in a manner that clearly sets out the costs for each specific phase. Under a phased plan the amount of the performance assurance will be recalculated at the end of each phase and adjusted accordingly.

6. This resolution shall take effect upon approval by the Board of County Commissioners of Charlotte County, Florida.

PASSED AND DULY ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

BOARD OF COUNTY COMMISSIONERS OF  
CHARLOTTE COUNTY, FLORIDA

By: \_\_\_\_\_  
Christopher G. Constance, Chairman

ATTEST:  
Barbara T. Scott, Clerk of Circuit  
Court and Ex-officio Clerk to the  
Board of County Commissioners

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

By: \_\_\_\_\_  
Janette S. Knowlton, County Attorney